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July 28, 2023

Honorable Valerie Figueredo, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Villaneuva, et al. vs. G-Net Construction Corp., et al.
Case: 1:22-cv-07199-JHR

First Request to Adjourn Settlement Conference

Dear Hon. Magistrate Judge Figueredo,

I represent the defendants in this proceeding. Joshua Levin-Epstein and Jason Mizrahi represent the plaintiffs. Pursuant to Your Honor's Standing Settlement Conference Order and Individual Practices in Civil Cases, I respectfully request the Settlement Conference scheduled for August 2, 2023 be adjourned to permit the parties to complete discovery that will make the conference more fruitful. This is the defendants' first request for an adjournment. Jason Mizrahi opposes an adjournment and filed Document No. 41.

Your Honor may recall that during our initial conference, I informed the Court that the defendants' accountant Nicholas Viggiani relocated to Florida, did not yet hire a replacement, and it was foreseeable there would be significant delay and difficulty responding to the plaintiffs' discovery demands. Your Honor indicated, in sum and substance, that if the parties needed additional time for discovery, Your Honor would grant a reasonable continuance.

I regret to inform the Court that Jason Mizrahi's opposition is disingenuous and totally misleading. He omitted to inform Your Honor of my medical condition and intentionally concealed the truth. On June 23, 2023, I placed Mr. Mizrahi on notice by email that

"I am writing to update you on your discovery demands and interrogatories. Earlier this year I had Covid-19 pneumonia that resulted in very serious complications. Yesterday, I had a medical appointment with my treating physician Dr. ALieta Eck and am being treated for Long Covid (post-acute sequelae of SARS CoV-2) among other related illness. Dr. Eck is preparing a medical letter for State and Federal Courts and I will provide you with a copy shortly. I am aware of the court's deadline for discovery and wanted to be transparent and notify you accordingly. I am never the less confident we will comply with the Court's September 2, 2023 discovery deadline." Exhibit 1.

On July 12, 2023, I emailed Mr. Mizrahi my doctor's medical diagnosis. Exhibit 2 and 3. Dr. Alieta Eck's July 11 medical letter is addressed to the New York State and Federal Court Systems. It states in pertinent part,

"On January 16, 2023, Robert Fileccia tested positive for Covid-19 with severe illness. This was his third bout, and I diagnosed him with Covid 19 pneumonia and Long Haul Covid. I prescribed Zithromax, Albuterol, Benzonatate, Ivermectin, and Fluvoxamine.

On June 22, 2023, Robert returned with numerous symptoms of Long Haul Covid and spike protein disease. Acute spike protein exposure causes immune system suppression and the recurrence of Covid 19 symptoms. Robert is undergoing testing including blood tests to investigate systemic inflammatory markers. I recommend a regimen of intermittent fasting and exercise to promote autophagy, plus the following medications: Ivermectin, Fluvoxamine, Nattokinase, and Montelukast."

Robert has been infected with Covid 19 three times. His repeated infections resulted in T-Cell exhaustion and puts him at high risk and more prone to reinfection and severe illness. ... Please extend to Robert the accommodation to work remotely from home to the end of the year. I will reevaluate his condition at that time." Exhibit 3.

Clearly, the medical letter indicates that I experienced numerous symptoms of Long-Covid and spike protein disease *before* June 22. However, Jason Mizrahi

- omitted to tell Your Honor that he was on notice of my medical condition and consented to all discovery extensions.
- omitted to tell Your Honor that on the morning of July 26, he solicited me to file a joint letter with him for a *virtual* settlement conference clearly trying to capitalize on Dr. Alieta Eck's virtual accommodation letter and avoid face-to-face settlement negotiations. Exhibit 4.
- omitted to tell Your Honor that the defense filed objections to his discovery demands and interrogatories including that "on or about June 7, 2023, Plaintiff Julio Perez called Defendant Joseph Nativo and asked to meet with him. Julio Perez informed Joseph Nativo that he is not a plaintiff in this lawsuit, did not authorize anyone to file the lawsuit on his behalf, and claims he never authorized anyone to list him as a plaintiff in the Complaint (Document #1) that was shown to him. Based upon the foregoing, we respectfully request a signed Declaration from Julio Perez that states he is a Plaintiff in this proceeding and has authorized Joshua Levin-Epstein and Jason Mizrahi to represent him."
- omitted to tell Your Honor that he described the defendants' discovery responses as being *deficient* and wants to meet and confer. Exhibit 5.

Based upon the foregoing, Mr. Mizrahi clearly exploited my illness for his own personal gain. His behavior is monstrous.

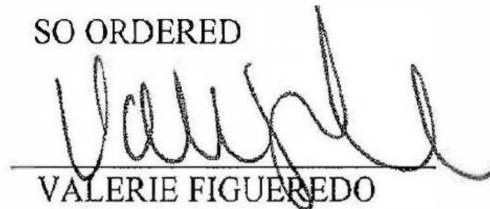
The good news is that God brought me an excellent medical doctor Dr. Alieta Eck who should not be a secret. She saved my life throughout the pandemic and was 100% correct in my diagnosis and treatment. Fortunately, I am feeling much better and attending to my professional obligations.

Therefore, the parties did not complete discovery and can benefit from additional exchange of information that would make the settlement conference much more fruitful. An adjournment will not prejudice the Plaintiffs. I anticipate serving Deposition Notices on the Plaintiffs today and document demands and interrogatories next week. Defendant Joseph Nativo informed me that he will be on vacation from August 30 to September 14. As a result, I respectfully request an adjournment of the settlement conference after September 14, 2023. Thank you.

Respectfully submitted,
/s/ *Robert Fileccia*
Robert J. Fileccia, Esq.
Attorney for Defendants

cc: Jason Mizrahi, Esq. by ECF

SO ORDERED



VALERIE FIGUEREDO

United States Magistrate Judge

Dated: 7-28-2023

Defendants' request for an adjournment is **GRANTED**. The settlement conference scheduled for August 2, 2023 is hereby adjourned to **Monday, September 18, 2023 at 2:00 p.m.** The parties are directed submit pre-conference submissions, via e-mail to chambers, no later than **September 11, 2023**. The Clerk of Court is directed to terminate the motion at ECF No. 42.